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CROMWELL

LETTER OF WM NELSON  
CROMWELL TO HON J VAN  
VECHTEN OLCOTT





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LETTER

OF

WM. NELSON CROMWELL

TO

HON. J. VAN VECHTEN OLCOTT,

Member of Congress from New York,

CONCERNING

PANAMA CANAL MATTERS.

Dated February 4, 1909.

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LETTER  
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WM. NELSON CROMWELL  
TO  
HON. J. VAN VECHTEN OLCOTT,  
MEMBER OF CONGRESS FROM NEW YORK,  
CONCERNING PANAMA CANAL MATTERS.

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*New York, February 4th, 1909.*

*My Dear Sir :*

A few days ago, Representative Rainey of Illinois, delivered on the floor of the House an address concerning Panama Canal matters and the Republic of Panama, slanderous in character, affecting not only myself and other citizens in private life, but the President of the Republic of Panama and distinguished officials of the United States.

Barricaded safely behind the walls of Congress, Mr. Rainey is immune under the Constitution from prosecution for his false statements. But the relations of the United States to the Panama Canal and to the sister Republic of Panama are of such national and international concern that I consider it my duty to place before you, as a Representative in Congress from my home city, the facts of the case in refutation of the statements referred to for such use as you may consider advisable.

During the recent national election, and with the manifest purpose of injuring the Republican Administration under which the Panama Canal had been acquired, various malicious stories concerning the acquisition of the Panama Canal by the United States were offered for sale to, and considered by, the National Democratic Committee as campaign material, and were hawked about for sale to various newspapers. Finally certain newspapers gave them libellous currency, and it was announced in The New York World of October 23, 1908, that "Under an agreement reached with Democratic leaders to-day, Representative Rainey of Illinois will, on the first

day of the session (of Congress) introduce a resolution calling for the appointment of a special committee to investigate the matter" and Representative Rainey is quoted as saying :

"I am sorry the President's letter to Secretary Knox did not clear up the mystery surrounding the Panama Canal deal. He ought to be able to tell whether or not his brother-in-law Douglas Robinson and the brother of the Republican candidate were interested in the American Syndicate which succeeded in getting control of the securities of the Panama Canal Company just before the Nicaragua Route was mysteriously abandoned."

The gentleman carried out this pre-arranged plan and immediately upon the opening of the session introduced a resolution of inquiry.

The authors of these infamous stories are now under investigation in the criminal courts of the District of Columbia and of New York.

During the past decade no subject has been more prominently before the American public, more thoroughly investigated and discussed, more under the scrutiny of Congress and the investigations of its committees than the question of the selection of the Canal route and the acquisition and purchase of the Panama Canal. It was to be anticipated that such a vast affair, requiring such enormous expenditures, would be more or less the subject of criticism, but every citizen should be proud of the fact that not a single improper charge has been substantiated and that there is no basis whatever for criticism against the Government, its officials, any one in public life or any one in any way identified with the negotiations for the acquisition of the Canal. The whole record is one of which the American people and every one identified with the subject matter may feel sincere pride.

## I.

As to myself, I have already made, in an extended answer before Congress and in other public statements complete refutation of these unworthy stories, and in which I have

stated, and again repeat, that not a dollar of the \$10,000,000 paid to the French Companies or the \$10,000,000 paid to the Republic of Panama was ever received, directly or indirectly, by me, save moderate professional compensation officially audited and approved and a matter of official record; and, furthermore, that I never have had a penny's interest in any business affair in the Republic of Panama, save only a minority interest in the shares of a local light company in the City of Panama, which investment I made in cash, at par, a few years ago, upon the earnest invitation of citizens of Panama to encourage a local enterprise, and which affair has nothing to do with the United States. As the unsupported statements of the gentlemen from Illinois are mainly a rehash, in cheap imitation, of speeches made by others and of the libellous articles of the New York World, and as all these have been exploded as fallacies, it ought not to be necessary for me to again expose them, but I shall do so later on in this communication. I am unwilling, too, as counsel of the Republic of Panama, to permit the fair name of the eminent President of that Republic to be brought in question, without personally bearing testimony to the facts, and calling attention to this injustice and this breach of international propriety.

Don Domingo De Obaldia has lived his sixty-four years in the public eye of his country, Colombia and Panama, as a gentleman of the highest accomplishments and refinement; he comes of a family which for generations have sat in the councils of their nation; and is universally recognized by his countrymen as the highest type of personal honor and political purity and patriotism. He is a very rare type of gentleman and would do honor to any country in the world and is universally beloved and respected by his people. He is also a sincere admirer of this nation and its institutions. It was his independence and patriotism which made him stand out alone as the only Senator in the Colombian Congress who had the courage to vote in favor of the Hay-Herran Treaty, as an open and courageous advocate of the interests of the Isthmus. It was he who thrice in public speeches in the Senate at Bogota, in the course of that debate, warned his fellow countrymen that if the treaty were rejected the Department of Panama would revolt. It was doubtless in recognition of his devotion to the Isthmus and his lofty char-

acter that he was selected as First Vice-President of the new Republic, and that justified the general expectation that he would be the natural successor to President Amador, whose advanced age precluded the possibility of his re-election. It was this gentleman who was made Minister at Washington a few months after the independence of the Republic, and whom all official life in Washington will remember for his charms of person and character. He was called home in May, 1907, to become acting President during the six months vacation of President Amador, but in general expectation of his succeeding to the Presidency. In this expectation there was at that period no public difference and President Amador himself openly stated it at that time, as his individual preference for his friend of forty years intimacy. However, not long before the date fixed for the national election another distinguished citizen, holding the office of Secretary of State, Mr. Arias, became a candidate and questions arose as to the validity of the proceedings upon the approaching election. Sworn representatives ~~were~~ were made to Secretary Taft, by various committees, of both political parties, indicating that if the validity of the election should be brought in question, public disorder would follow, endangering the property of the Canal and the interests of the United States, as well as the peace of the Republic. This was the reason for the necessary consideration of the subject by Secretary Taft.

As a result of friendly conferences between the highest officials of both Governments, a happy solution was found in the proposal by the Panama Government to itself establish a Commission of Electoral Inquiry, and to invite the United States to have representatives, without any judicial functions, accompany that Commission in its investigations. By this means the crisis was averted and the national election proceeded in an orderly manner. Mr. Arias, for reasons of his own, withdrew his candidacy on the eve of the election, and Mr. Obaldia was elected.

Protocols for treaties between the United States, Panama and Colombia had been signed at Washington in August, 1907, but in preparing the treaties certain questions arose requiring examination on the Isthmus relating to boundary, etc. In May, 1908, Secretary Taft was going to the Isthmus upon Canal matters and his visit was availed of to arrange for con-



ference upon certain treaty subjects. Accordingly, Minister Arango, then at Washington, and myself as Panama Counsel, proceeded to the Isthmus in advance of Secretary Taft and when he arrived conferences were held between him and the American Minister on the one part and the officials of the Republic of Panama and myself on the other, concerning certain treaty subjects. It was while there on this treaty mission and without any anticipation in advance, that the question of the national election arose, and was happily solved, as I have stated.

It is apparent, therefore, that President Obaldia was not forced upon the people of Panama by this Government or by any other agency; and that he was the free choice of his countrymen; that the action of Secretary Taft was statesmanlike, prudent, friendly and greatly beneficial to both countries; and that any statement to the contrary by whomsoever made, on or off the floor of the House, is unqualifiedly false and unwarranted.

To give some color of truth to his remarks, the gentleman from Illinois states that President Obaldia and I have been closely identified with each other for ten years past. I wish to say that it would have been an added pleasure if I had known him that long, but this statement, like the others, is untrue. I never had the honor of President Obaldia's acquaintance, or any communication of any kind with him, either while he was at Bogota or on the Isthmus, either before the Independence or after it, until he came to Washington as the Minister of that Republic in June, 1904.

Of the gross impropriety and international discourtesy of statements upon the floor of Congress affecting the esteem of the people of the United States for the Chief Magistrate of a sister Republic, and the confidence of the people of that country in the Government of this country, no American citizen can have any doubt, and when beside, such allegations have no foundation in fact, no words of condemnation of such conduct can be too severe. And further when that sister Republic is the grantor of the concessions under which the Canal is being constructed, and when that great highway lies in the territory of that sister Republic and to an important degree under its protection, the offense becomes a direct injury and peril to the property and interests of the United States, as

calculated to impair the confidence of the people of that Republic in the friendship and good will of our people. I have frequently stated that in my judgment the good will, friendship and support of the Republic of Panama is the best guaranty of the safety and protection of the Canal. The continuation of such good-will and friendship is of paramount importance to this country, and anyone who willfully does anything calculated to impair it becomes a public enemy.

## II.

Referring to the statement made upon the floor of the House that the Republic of Panama is entertaining propositions for the construction of a railroad within its territory, and the sale of timber from public lands, it is proper to say that these subjects are exclusively within the business and jurisdiction of the Republic of Panama and are not the subject of action by the Congress of any other nation. The Republic of Panama is fully competent, acting through its Executive and through its own Congress, to deal with such affairs which concern itself alone. The consideration of the Congress of any other country of any such questions local to Panama, is not justified by any principle of international law or any rule of international courtesy or ethics; but for the information of yourself and my fellow citizens, I wish to declare that I have not and never have had, any interest or participation, directly or indirectly, in either of the propositions referred to, nor am I professionally or in any way a party to or interested in either of the proposed affairs and have taken no part in them; and to make this a matter of unquestionable knowledge on the Isthmus I forwarded the following cable to President Obaldia:

“NEW YORK, Jan. 29, 1909.

PRESIDENT OBALDIA,  
Presidencia, Panama.

In view of statements made in Congress by Representative Rainey of Illinois respecting railroad and timber propositions recently under consideration by the Panama Government and Legislature, I beg leave to state that I am not and never have been in any manner directly or indirectly, presently or prospectively interested in either of the proposed affairs or

any other railroad or timber proposition whatsoever in the Republic of Panama.

Please do me the favor to give this statement the fullest publicity.

WM. NELSON CROMWELL."

It was published at Panama.

I do not wish to be understood as in any way dealing with the merits of these subjects concerning which, moreover, I have no information or knowledge of any kind, one way or the other. But the gentleman from Illinois bases his unwarranted introduction of my name (and those of others) in connection with said railroad and timber propositions, upon alleged statements by Mr. John Ehrman (a well known banker of Panama) or of President Obaldia, at a certain conference at the Palace on the night of December 27, 1907. The gentleman makes the following specific statement in his speech of January 26.

"On Sunday night, the 27th day of December, Obaldia called to his palace certain members of the General Assembly, and they then and at that time demanded of him to know who the men were back of John Ehrman, representing that John Ehrman had no particular financial standing; and at that time they were told that the men who were back of this infamous, outrageous scheme were William Nelson Cromwell, Roger L. Farnham, his confidential clerk, W. S. Harvey, and Charles P. Taft."

He regards this as a vital and conclusive point in the case he manufactures by again repeating it word for word on the floor of the House, on the 29th of February, as well as in his interviews in the press.

I shall show in a moment that this is a complete fabrication, unworthy of any member of such a distinguished body.

This is made out of whole cloth and is false.

The conference in question was participated in by the President, his Cabinet and seventeen members of the Assembly. I present the following cables from every gentleman present at that conference, and also one from Mr. John Ehrman, which shows

FIRST. That Mr. John Ehrman was not present at all at said conference and consequently did not make the statement quoted.

SECOND. That no American or other outsider was present at the conference.

THIRD. That at said conference no mention was ever made by the President or any other person of the names of myself and the other gentlemen mentioned.

FOURTH. That Mr. Ehrman himself specifically declares that not only did he not make the statement quoted by Mr. Rainey, but that in fact myself and the others named were not connected with the parties interested with him in the affair.

The cables are as follows :

PANAMA, January 31, 1909.

MANUEL OBALDIA,  
Hotel Latham, N. Y.

I was not present at conference at Presidencia December 27th therefore have never made statement to Diputados relating to parties interested in timber proposition who have no connection with Charles Taft, Cromwell or Farnham. So I have never mentioned them to anybody.

(JOHN) JUAN EHRLMAN.

JANY. 31, 1909.

MANUEL OBALDIA,  
Hotel Latham, N. Y.

My attitude while in Colombian Congress in 1903 and my entire public life are far beyond the reach of slanderers.

Amador Arias government was not overthrown but after expiration of constitutional term was defeated in free elections which freedom of suffrage was due to the presence of the Americans at polls specially invited to do so by Amador Arias government as it is shown by official communication published and in accordance with article 136 of Panamanian constitution.

At conference at Presidencia December 27th were present the members of the cabinet and seventeen diputados. Neither Ehrman nor any other outsider was present and no mention was ever made by me or by any other person of Charles Taft, Cromwell or Farnham in regard to timber proposition which was brought before them for consideration. Railway proposition presented by Ward to assembly was considered and rejected. Assembly passed a law authorizing to construct railroads with public funds said roads to be national property.

Timber contract with Ehrman was rejected by Assembly and there is a bill under consideration regulating forest exploitation on the Atlantic Coast between Rive Concepcion and Costa Rica including the entire Chagres valley.

(President) OBALDIA.

PANAMA, February, 1, 1909.

MANUEL OBALDIA,  
Hotel Latham.

We, the undersigned, Diputados to the National Assembly of Panama, declare that we were present at the conference that took place at the Presidencia on the 27th of December last and affirm that in said conference neither President Obaldia nor anybody else stated that Messrs. Taft, Cromwell or Farnham had any interest or participation in the timber affair proposed to the Government of the Republic.

(Signed)

PABLO AROSEMENA  
JULIO J. FABREGA  
HECTOR CONTE B  
CORLIANO GUARDIA  
ANTONIO BURGOS, (President of  
Assembly)  
R. AIZPURU  
S. SUCRE  
GONZALO SANTOS K  
ISAAC DELGADO  
JOSE D. GUARDIA  
JOSE E. LEFEVRE  
E. A. MORALES  
DEMETRIO DUTARY  
JERONIMO GARCIA  
SIMON ESQUIVEL  
JOSE M. SOTOMAYER  
IGNACIO QUINZADA

This disposes of the personal question.

But it also is shown how the Railway and Timber propositions were in fact dealt with by the Panamanian Congress.

1st. That Mr. Ward's railroad proposition was rejected by Congress and that Congress passed a law for the construction of a railroad as Government property.

2nd. That Mr. Ehrman's timber proposition was rejected by Congress and that Congress has under consideration a bill regulating forest exploitation in the national interest

Thus not only is the gentleman from Illinois convicted of making statements which are untrue in fact, but it is clearly shown how conservatively the Nation has acted.

## III.

Insinuations made against the financial integrity and methods of the Republic of Panama are made by the gentleman referred to.

I remind you that by Article 138 of the Constitution of Panama, it is provided that :

“ In order to guarantee to posterity a part of the pecuniary benefits derived from the negotiation for the opening of the interoceanic canal, the sum of six million dollars is to be reserved which will be inverted into securities producing a fixed annual revenue. The law will regulate this inversion.”

I presented to the Senate Committee in February, 1906, a detailed memorandum showing the investment and disposition of the entire \$10,000,000 paid by the United States to the Republic of Panama, and I am glad of the opportunity to state that the investment of \$6,000,000 in first mortgages upon high class improved property in the City of New York, remains intact. All these funds are cared for and safe-guarded in the most scrupulous manner, and there is now thus invested and on deposit in the Trust Companies in New York City, at interest, the aggregate sum of \$7,249,014.23, in addition to its cash in Panama. Every dollar of this stands in the name of the Republic of Panama. No disbursements are made from these funds without the direct order of the Government of Panama. The accounting between New York and the Republic of Panama is systematic and perfect, and the disbursement of every dollar of these funds is published at regular and frequent intervals by the Minister of Finance of the Government of Panama in the Official Gazette, and is thus made known to all the citizens of that country.

The management of the Panama Government is prudent and the national funds are zealously guarded. It is proud of the position which it occupies at being perhaps the only civilized country which has not a dollar of debt and which has a substantial cash reserve. It has also placed itself upon a gold basis by voluntarily creating a cash fund now on deposit with the trust companies of the City of New York, in the name of the Republic, representing the difference in value between the

silver currency and the gold coin. No people could manifest more clearly their high standard of financial honor and their worthy ambition to be ranked among the best of the world. The young republic is worthy the respect, confidence and praise of their American brethren, and improper insinuations against its conduct on the floor of the House are not only improper as a matter of international courtesy, but grossly false in fact.

#### IV.

The pending treaties between Panama, Colombia and the United States have been referred to as furthering in some mysterious way an improper purpose. As counsel for the Republic of Panama, permit me to say that after the independence four fundamental questions remained for adjustment between Panama and Colombia, as is usual in cases of separation of territory; as was the case between United States and Great Britain, between Colombia and other South American Republics separated from Spain, and many other well known instances. These involved the establishment of the precise boundary between Panama and Colombia; the ascertainment of the proportion of the foreign debt of Colombia which should be borne by the separating republic and the adjustment of other pecuniary relations; commercial, extradition, postal arbitration and other relations, as well as the formal recognition by Colombia, itself, of the Independence of Panama as had been done by all other civilized nations. The United States, was of course, deeply concerned in promoting these ends and by request of Colombia and Panama lent its good offices as mediator. These negotiations were, with much vicissitude, pursued for over two years, when, on August 17, 1907, protocols for treaties were formally signed at Washington. But fresh differences arose in the preparation of the treaties themselves and it was only on the 9th day of January, 1909, complete accord was reached and the treaties were signed.

This happy result is one of portentous significance in United States and South American affairs. It re-establishes cordial diplomatic and commercial relations; it determines vexatious questions of boundary lines and pecuniary obliga-

tions ; and furnishes to all South America a practical illustration of the fraternal attitude and friendly disposition of the United States.

When the Hay-Herran Treaty was pending before the Colombian Congress in 1903 and when that Government demanded of my French clients the equivalent of \$20,000,000 in cash as the price of its consent to the sale of the Company's property to the United States, it was my duty to oppose that demand, and I did so ; but since the Independence I have been earnestly devoted to the establishment between Panama and Colombia of the relations embodied in these treaties.

It is this beneficent result which constitutes to the mind of the member from Illinois an inscrutable and unfathomable depth of mystery and mischief.

## V.

Although the purchase of the Panama Canal properties was fully and satisfactorily concluded in May, 1904, and although every step has been reported to Congress, the heat of party conflict in the recent national campaign induced the publication of the false stories to which I first alluded concerning the purchase of the Canal. I made this the subject of an explicit public statement on December 11, 1908, which was transmitted by the President to Congress in connection with his message on December 15, 1908. Permit me emphatically to reiterate every statement by me therein made, and for that purpose I attach a copy hereto. There is no obscurity or uncertainty about any aspect of the Canal purchase. The indubitable records exist and are open to all who are entitled to see them.

You are aware that prior to 1899 the people of the United States had not given the Panama Canal serious consideration, although work upon it was steadily progressing by the French Company, with several thousand laborers. But in March of that year Congress created a new Commission (the Walker Commission) and then for the first time an examination was made of the Panama Route and the concessions, work, plant and other affairs of the Panama Canal and railroad. This examination was made during six weeks daily sessions in Paris by the Commission as a body, and subsequently by



many months examination on the Isthmus with a corps of engineers. I can state without fear of contradiction that the members of the Commission were greatly surprised and most favorably impressed with the result of their investigations and the superiority of the Panama Route over that of Nicaragua, which had theretofore been popularly considered the preferable one. No unprejudiced person can read the Commission's reports and the subsequent testimony of its members before the Committees of the Senate and House without being satisfied that the Commission were of this opinion. But the law under which they acted required them to recommend the route "most practicable and feasible" and which could be "under the control, management and ownership of the United States." This included, therefore, not only technical superiority and feasibility, but also the practicability of the United States controlling, managing and owning the same. In other words, that while the Panama Route might be the superior and "feasible" route from a technical standpoint, it would not be a practicable one for the purposes of the United States, if it could not be acquired upon satisfactory terms and placed under the "control, management and ownership of the United States"; and that therefore the two elements, *feasibility and practicability*, must co-exist.

For this reason, as their reports state, the Commission requested the Panama Canal Company, in September, 1899, to state the price and terms upon which it would sell the Canal properties in case the United States should adopt the Panama Route.

The French Company, while furnishing every facility in France and upon the Isthmus for the most minute inspection of its plans and work was reluctant to sell upon any terms, or to abandon the completion of the Canal as a French enterprise. The correspondence reported to Congress by the Commission shows a series of letters upon the part of the Commission addressed to the Panama Canal Company urging a reply to the request that the Company declare whether it was willing at all to sell, and if so the price at which it would sell. For more than a year and a half the Company steadily refrained from making any definite reply to this request. The Company sent to this country its President, who thereafter personally conducted the conferences with the Commission and furnished

appraisements and valuations of \$109,000,000 as a basis for discussion. Finally, in November, 1901, the Commission announcing that it was unable to procure a definite offer from the French Company, closed the debate by re-making a report (November 16, 1901) in favor of the Nicaragua Route, upon the ground that it was not "practicable" to acquire from the French Company the Panama Canal and bring it under the "control, management and ownership of the United States," and they set forth the voluminous correspondence with the President of the Company describing their efforts in that regard.

Upon Page 103 of their report the *Commission fixed the sum of \$40,000,000 as the value to the United States of the Panama Company's properties* (including about 98% of the Railroad shares) as it then stood, giving the items thereof in detail, but taking no account of the valuable concessions owned by the Company and which cost the Company altogether over \$3,000,000, nor the vast amount of locomotives, cars, tools, machinery, supplies, dredges and other plant which cost many millions of dollars and considerable of which has since been utilized by the United States.

At this point I call attention to another misstatement of the gentleman from Illinois. He says that when the Colombian Congress was demanding from the Canal Company some portion of the \$40,000,000, the franchise granted to the Canal Company expired in less than a year and at that time the entire French holdings on the Isthmus would be forfeited to Colombia. This, too, is false. The Canal franchises had at that time (October, 1903) still seven years to run (Oct. 31, 1910) and the Railroad Concessions had sixty-six years to run (1969).

In view of the Commission's report recommending the Nicaragua Route and the state of legislation in Congress, the Panama Company cabled to the Commission on January 4, 1902 (confirmed January 9, 1902) as follows:

" \* \* \* The Company declares itself ready to transfer to the Government of the United States on payment of forty million dollars its properties and concessions estimated at that amount by the Isthmian Canal Commission in its last Report, Page 103, in conformity with the terms and conditions of said Report."

The reference to page 103 of the Commission's Report was the valuation of \$40,000,000 *made by the Commission*. Upon demand of the United States, the Company by cable of January 11, 1902 also included in the sale "all maps and archives in Paris." It is manifest, therefore, first, that the French Company was reluctant to surrender the completion by itself of the Canal enterprise and had resisted for over a year and a half the efforts of the Commission to procure an offer of sale; second, that it finally made the sale under pressure of the circumstances referred to; and third, that the price was fixed *not by the French Company but by the Government of the United States* in the Commission's report referred to.

I make this rehearsal of the records of the case to refute the loose and unwarranted statements that the French companies in any sense imposed a price upon the United States; and also to make it clear that the price was fixed by the *United States itself* and included millions of dollars of property in addition to that valued in the appraisal made by the United States. As, at last, an offer had been procured by them from the French Company, the Commission promptly reconvened and by their further report of January 19, 1902, recommended the acceptance of the offer, and subsequently, Congress, after exhaustive debate, adopted the so-called Spooner Bill on June 28th, 1902, authorizing the consummation of the purchase under conditions of an approved title and a satisfactory treaty with the sovereign of the territory.

The transaction was concluded and the sale consummated May 10, 1904, and payment made to the liquidators of the two French companies directly from the Treasury of the United States into the Bank of France, through Messrs. J. P. Morgan & Company as fiscal agents of the United States. The expense of the transmission of the fund from the United States to France was borne by my clients, the French Company. Messrs. Morgan & Company received compensation measured by the difference in exchange, of about \$35,000 only, in respect of the \$40,000,000 gold transmitted. No part of this expense was borne by the United States. The receipts of the Liquidators of the old company and of the Panama Canal Company for the entire sum of \$40,000,000 are on file in the Treasury of the United States and show, as any citizen can see, that the

\$40,000,000 was paid directly into the Bank of France to the credit of the Liquidators of the old and the new French Companies, in the proportions approved by the French Tribunal.

In my public statement of December 11 last, above referred to, I explained how this sum of \$40,000,000 was distributed by the Liquidators to the beneficiaries of each company, and I also stated, as I now repeat, that there was no American syndicate which had previously acquired the Canal and then sold to the United States and that the whole story to that effect was a falsehood and concoction.

## VI.

Now a word as to the account for additional construction work performed by the French Company:

Between the date of the appraisal by the Commission and the date of the closing of the transaction (April 1900-May 1904), the French Company continued the work upon the Isthmus with a large force of engineers and employees, and actually expended thereon the additional sum of \$2,251,808.47.

After the offer of sale the daily execution of this work upon the Isthmus was, by direction of the President, supervised, inspected and reported upon by United States engineers especially delegated for that purpose, so that the account thereof was contemporaneously examined as the work progressed.

During this period and before closing the purchase, the Company communicated to the United States its expectation that re-imbursement for such additional actual cash outlay would be made as part of the purchase and as a part of the concluding details of the transfer. The subject of this additional construction work was accordingly (and as a part of the closing of title by written agreement) referred to President Roosevelt, as sole arbitrator, with the understanding that his decision should be conclusive.

Through the Attorney General the duty of examining into and reporting upon the facts was delegated to the Commission, reserving to the Attorney General the questions of law. The Commission performed its duty and reported that the amount had, in fact, been actually so expended. Subsequently, as sole arbitrator, the President rendered a decision to the effect that

he considered that the purchase price of \$40,000,000 should embrace the additional expenditures. There was at no time any question as to the fact of the expenditures and as to the amount thereof, nor as to the fact that the United States received the benefit of it. It is manifest, therefore, that the presentation of this claim by the French Company was warranted by the conditions and was a part of the transaction, while conclusively adversely disposed of by the decision of the agreed arbitrator.

Thus the United States received this additional work costing the French Company \$2,251,808.47, as a part of the \$40,000,000 purchase. To characterize this account for further construction work as fraudulent is, therefore, a manifest wrong to the French Company and only aggravates their sense of loss.

During the pendency of the offer, also, the Panama Railroad Company continued in operation under control of the French Company, and under the circumstances of the case, it was legally entitled to the net earnings of operation. This right was unquestioned. The management of the Railroad Company was officially passed upon in behalf of the Government by a sub-committee of the Interstate and Foreign Commerce Committee of the House, appointed under resolution approved by the House, January 12, 1905, and which, after investigation at New York and in Washington of the affairs, earnings and condition of the Panama Railroad Company, rendered its unanimous report to the House, which, among other things stated :

“The testimony shows that the management by the officers and directors of the Panama Railroad has been conspicuously able, progressive and business-like.”

Further, an exhaustive report by the Secretary of War to the Committee on Interoceanic Canals of the Senate on the 28th of June, 1906, especially dealt with and disposed of the subject of dividends. In that report, presenting exhaustive analyses of accounts, he stated :

“The figures show, therefore, that instead of the Panama Canal Company, as a stockholder in the Railroad Company, depriving the United States, as its transferee of stock, of the benefit to it, of assets of the Company by the declaration and payment of dividends in excess of net earnings, there was left

in the Treasury of the Company \$109,344.36 of undivided profits."

Not only were the French companies entitled to the net earnings for the reasons stated, but by other considerations as well. In the first place, no interest was allowed to them upon the purchase price of \$40,000,000 between the date of the offer (January, 1902) and the transfer to the United States (May, 1904), which, at the rate of four per cent., would have amounted to over \$3,200,000, as against dividends of less than \$1,000,000; and second, they expended (as it turned out) \$2,251,808.47, several hundred thousand dollars of which were actually expended between January, 1902 and May, 1904, and for which, through the decision of the President, it received no additional allowance.

Every account and transaction of the Railroad Company was audited and approved by the Government officials after full examination.

This brings me to state a consideration of great moment to this Country, and that is that both the Panama Canal and the Panama Railroad were turned over to the United States well equipped, well managed, in active operation, and with a sympathetic and energetic force that enabled the great work to go on through both branches of that service without interruption from the moment of the transfer. This fact in the construction of the Canal will be appreciated as an element of tremendous advantage in the prosecution of the undertaking and has been an important factor in enabling the United States to reach the advanced stage of construction which its energetic officials have attained.

## VII.

Permit me now to make allusion to the brief continuance of myself and some of my associates in the Board of the Panama Railroad Company after the consummation of the purchase. Pursuant to the authority of Congress, the responsibility of this great affair was placed in the hands of the secretary of war, acting more directly through the Isthmian Canal Commission. The affair was so vast and the experience which had been acquired by the officials and counsel through their many years previous association with it was deemed so

valuable that they were asked to continue for a while in their respective relations and give the Government the benefit thereof. Pursuant to this expressed wish, I with others of the old board, continued as director and my firm as counsel of the Railroad Company until April 1, 1907, when I terminated every relation with the Company.

The Panama Government had invested \$1,000,000 in the first mortgage bonds of the Panama Railroad Company and in recognition of the fact that it was the largest single owner of its bonds, and in token of friendliness to that nation, Mr. Obaldia, then Minister at Washington, was invited by this Government to a seat in the Board. Nevertheless, he, with Mr. Farnham, retired from the Board when I did, on April 1, 1907.

Therefore, the statement by the gentleman from Illinois that myself, Mr. Obaldia and Mr. Farnham are members of the Panama Railroad Company, or that either of us has since April 1, 1907, had any official or professional relations to the Company is untrue as the records of the Company and of the Government will instantly reveal.

### VIII.

The speech referred to is so full of untrue statements that it is difficult to follow them all, but among them I note the statement that while I was counsel for the Panama Railroad Company I acted as counsel for the Transcontinental Railroad under Mr. Harriman's control. This also is untrue.

I have thus disposed of every material criticism or statement made on the floor of the House concerning the acquisition by the Government of the United States of the Canal and Railroad properties.

### IX.

I would not have felt justified in dealing with these matters at such length and with so much particularity were it not for the fact that a member of the House of Representatives has chosen to avail of his privilege as a member of that distinguished body to make the unwarrantable and false statements to which I have referred. By reason of his position the state-

ments thus made by him have received a currency and a publicity which otherwise would have been impossible. They have appeared in the records of Congress, have been circulated through the press throughout the country, and although in many material respects categorically denied and disapproved, have in effect, been reiterated by him on the floor of the House. Protected as he is by his constitutional privilege, there is no means within my power legally to call him to an account for the wrong which he has perpetrated. Had the statements been made in good faith, or been founded upon facts, he might plead this in extenuation of the wrong committed by him. But it appears from what I have said, from the records of Congress, from the history of the case, and from the indisputable facts that not a single statement of fact made by him was either in spirit or letter justified or in any respect consistent with the truth.

No course is left me as a self-respecting citizen but to brand his statements as maliciously false and his purpose and motive as absolutely unworthy, and this I do as a matter of justice to the President of Panama and to those who have so ably and conscientiously co-operated in bringing about and consummating this great undertaking, as well as a matter of justice to me and to the modest part which I have played in the Panama Canal.

Having devoted many years of my life to the achieving of this—the greatest work of mankind—and having done so without a penny of gain or profit of any kind from any source, beyond strictly professional compensation; and having since the acquisition by the United States served my country upon many occasions at the request of the Executives, without the thought of reward, prizing more than all else their official thanks in behalf of the Government, I feel that I am entitled to the protection of the House of Representatives against misrepresentation, malice and slander within its protected walls.

Very respectfully yours,

*Wm. Nelson Cromwell.*

*Hon. J. Van Vechten Olcott,*  
*House of Representatives, Washington.*



**Statement of Mr. Cromwell, December 11, 1908,  
Transmitted to Congress by the President  
With His Message of December 15, 1908, and  
Referred to in the Foregoing Letter.**

My attention has been called to a statement issued by the editor of The Indianapolis News in which he attempts to reply to the charge made by President Roosevelt that certain statements made in The Indianapolis News, both before and since the recent election and relating to the purchase of the Panama Canal by the United States were false and untrue.

The President said :

“The News gives currency to the charge that the United States bought from American citizens for \$40,000,000 property that cost these citizens only \$12,000,000. The statement is false. The United States did not pay a cent of the \$40,000,000 to any American citizen, &c.”

From the statement issued in reply by the editor of The News, I quote the following :

“The only man who paid any attention to them [that is, the criticisms referred to, &c.,] was Mr. Charles P. Taft, who did deny that he was in any way related to the affair. We had no word from the President or Mr. Taft. The other men, such as Cromwell and Morgan, who were believed to have full information in regard to the business, said nothing.”

And he attempts to justify the publication of the false statements appearing in his paper by saying that they

“were based largely on statements of The New York World, criticisms which were made over and over again during the campaign, and were utterly ignored until to-day.”

The reply to the editor of The News furnishes another proof of the President's characterizations, for in the very journal under whose sheets it now takes refuge, namely, in The New York World of Oct. 3, 1908, appears an explicit and unqualified denial by me of the story referred to and in which I used the following language :

“We may expect during a heated political contest all kinds of stories, which are not worthy of notice, but this one I wish to denounce in the strongest terms as a lying fabrication without

a shadow of truth in it. Neither I nor any one allied with me, either directly or indirectly, at any time or in any place in America or abroad, ever bought, sold, dealt in, or ever made a penny of profit out of any stocks, bonds, or other securities of either the old Panama Canal Company or the new Panama Canal Company or ever received for the same a single dollar of the forty millions paid by the United States. I make this the most sweeping statement that language can convey.

As everybody connected with the affair knows, I abstained from receiving the forty millions in my own hands at Washington or New York as the general counsel of the company, and myself arranged for the payment of the entire forty millions direct from the Treasury of the United States through the bankers of the Government into the Bank of France at Paris to the credit of the liquidators of the two companies. There it remained subject to the order of the liquidators until distributed by them to the hundreds of thousands of beneficiaries, and not one dollar of it ever came to me or any one in any wise connected with me. Of course, I do not refer to our regular compensation as counsel."

I wish to call attention to the fact that upon the first day of the hearings before the Committee on Interoceanic Canals of the Senate of the United States in February, 1906, I voluntarily made an explicit and detailed statement showing how the \$40,000,000 was paid by the United States through Messrs. J. P. Morgan & Co. as their agents to the Bank of France at Paris for account of the new Panama Canal Company, and also explaining the subsequent payment of the full amount to the liquidators of the New Panama Canal Company and to the liquidator of the old Panama Canal Company, who in turn distributed the same to their respective stock and bond holders, numbering hundreds of thousands of persons.

I further submitted to the Senate committees with the permission of the Panama Government, a detailed statement of the disposition by the Republic of Panama of the \$10,000,000 paid by the United States to Panama in 1904, accounting for the payment of the whole amount and showing the investments and disposition by the Panama Government of every dollar.

Upon the same public inquiry I further stated with reference to the proposed Americanization of the Panama Canal Company in the year 1899 and the proposed formation

of a syndicate for that purpose in that year, that the proposed plan never matured into anything. It was never consummated either by subscription or by assent, and it is obsolete and an impracticable thing—proved so to be. It has no life or force of being, did not exist, and never has existed and is as dead as a door nail.

That was a fruitless suggestion of the company, which came to naught and under which I acted as their counsel solely.

The testimony taken by the Senate Committee is a public record and was available to the editors of *The News* and *The World*, and had either of them been as interested in publishing the truth as they were to create a political sensation, they doubtless would have taken the pains to have published the above facts, which I quote.

I again denounce the statement wherever published or by whomsoever made that there was a syndicate formed by American citizens to purchase the Panama Canal and to sell it to the United States as absolutely and unqualifiedly false and untrue. The Americanization plan was an entirely different matter. It was a project proposed by the company to the Rivers and Harbors Committee of the House and to President McKinley on Feb. 27, 1899, and was formally authorized by the Board of Directors Oct. 10, 1899, subject to the necessary approval of stockholders.

The initial steps were taken by me in October, November, and December, 1899, and a company formed for the purpose under the laws of New Jersey for carrying out the instructions of my client. While the certificate of incorporation of the Panama Canal Company of America was filed in New Jersey, no capital stock, except the nominal capital of \$5,000 set forth in the certificate of incorporation was ever issued and nothing further was ever done by that company, as the records in the office of the Secretary of State of New Jersey will show.

The project adopted by the Board of Directors failed of approval by the stockholders in December, 1899; the Board of Directors in consequence resigned in a body, and the plan then and there forever ended. The period covered by this project was less than three months; not a dollar was paid in under it nor a transaction conducted by the New Jersey com-

pany for the reason stated. The plan was dead and abandoned over two years before the company finally yielded to the pressure of the American Government to sell at \$40,000,000.

Now, with regard to the distribution of the \$40,000,000, it has been made to appear in newspaper comments that there was some mystery connected with the disposition of this money. There is no mystery and never has been. The fund in question paid into the Bank of France by the United States produced the net sum of 206,000,000 francs, the sum of 128,000,000 francs being placed to the credit of the liquidator of the old Panama Canal Company and 77,400,000 francs being placed to the credit of the new Panama Canal Company in liquidation, and by said Bank paid over to said liquidators, respectively, pursuant to a decision of arbitration at Paris Feb. 11, 1902, confirmed by the Civil Tribunal of the Seine.

To the Senate Committee I stated that I did not know what distribution of the fund had been made, and that I was in no way concerned, or interested therein. That statement by me was true. I had no pecuniary interest in the canal, and it was none of my business, personally or professionally, who were the stockholders or bondholders of the company.

Since the recent publications I have made inquiries in Paris and am informed that the distribution of these moneys is a matter of public record ; that the amount received by the liquidator of the old Panama Canal Company has been distributed by him as an officer of the court to the holders of the obligations of the old company ; that these persons appeared in person at the office of the liquidator to receipt for the moneys paid to them ; that they numbered 226,296, the largest number of individuals probably ever appearing in person upon a single business affair, and that the average amount paid was \$156.

The complete and detailed record of these payments, together with the name and receipt of every person to whom payment was made and the amount of such payment, is in the hands of the liquidator at his offices, at 50 Rue Etienne Marcel, Paris, which is in a prominent and frequented part of the city, near the Bourse, easily found by anyone desirous of doing so.

As to the fund paid to the new Panama Canal Company, that company at the time of the sale of its property to the United States went into liquidation, and I am likewise recently informed that the distribution of its assets among its shareholders was made through four leading banks of Paris, the Crédit Lyonnais Société Générale, Comptoir National d'Escompte de Paris, and Crédit Industriel et Commercial, in three separate payments, (July 15, 1904 ; Feb. 3, 1908, and June 15, 1908), covering a period of four years, and was completed in June, 1908. This liquidation took place at the regular offices of the company, 19 Rue Louis le Grand, Paris, readily found by anybody who honestly sought to find them.

The facts concerning the liquidation are a matter of public report to the shareholders of the company, (this company had no bond issues), and were the subject of official publications from time to time, covering a period of four years in the official papers under direction of the courts. The amount so paid to the shareholders of the New Panama Canal Company, as I am informed by the liquidators, is approximately 129.78f. on each share of the par value of 100f., that is, they merely received back only the capital originally invested, with interest, less than 3 per cent. per annum. I am informed by the liquidators that the shareholders to whom distribution was made numbered 6,796.

Neither I nor my law firm nor any one connected with me ever owned, directly or indirectly, any share of stock in the new Panama Canal Company, nor any of the obligations or securities of the old Panama Canal Company, nor ever bought or sold any of the shares or securities of either one of said companies, nor were directly or indirectly interested in them.

I am also positive that not a man in public life in America, in or out of Congress, ever had the least pecuniary interest in the Panama Canal.

I do not know and never have known of any American citizen who has ever dealt in any of the shares of the new Panama Canal Company or the shares or bonds of the old company.

A further instance of the unwarranted attitude of The Indianapolis News and of other journals repeating the statements is furnished with respect to Mr. C. P. Taft and Mr. Douglas Robinson. In the same issue of The World (Oct. 3, 1908) I said :

“ The mention of the names of Mr. Taft and Mr. Douglas Robinson is another evidence that this is a fake story. No member of the Taft family or Mr. Douglas Robinson ever had the remotest connection with Panama Canal matters directly or indirectly, and I never saw one of them on this subject before the United States acquired the canal. I never saw Mr. Douglas Robinson in my life. The names of Cæsar and Napoleon might as well have been used, for it could not be more impossible. All this except the dragging in of new names was thrashed out before the United States Senate Committee by the late Senator Morgan.

“ Out of respect for the dead I refrain from comment upon that proceeding, but I feel warranted in saying that it was pursued with unparalleled energy and skill. It was, however, completely exploded and refuted by the facts in the case, and ended in complete discomfiture. There is not a word of truth in it, and I would not notice it at this time if it did not concern others.”

The introduction of these gentlemen in the Panama affairs is like the creation of a character in a work of fiction. They did not exist in the sense of having any relation to the canal matter. Neither of them ever had the least pecuniary interest in the business. It is a matter of public history that the President-elect never had any official connection with the canal until months after it had been acquired by this Government. He was in the Philippines as Governor during all the years in question.

Equally perverted is the fact concerning the records and accounts of the two companies. They were not delivered to the United States, because they were records of the companies' transactions with which the United States had no concern. But as a matter of fact the records and files of the liquidation of the old company are in the hands of the liquidator at 50 Rue Etienne Marcel, Paris, and those of the new company were, on the final payment in June, 1908, deposited with the Credit

Lyonnais, Boulevard des Italiens, to be preserved, in accordance with French custom, for a period of twenty years. That corporation has the custody of the records, as is well known to all parties in interest.

The whole story of Americans or some American syndicate buying up the Panama Canal securities at a low price, or at any price, and then turning them in upon liquidation at a profit, is a fiction and a concoction. The money of the United States went to France, and was distributed to the hundreds of thousands of foreign owners, none of whom, so far as I know, were Americans.







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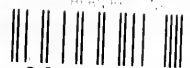
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